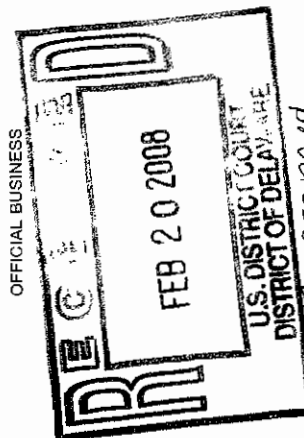


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United States District Court
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Wilmington, Delaware 19801-3570



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04-210

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

RICARDO A. CASTILLO,)	
)	
Plaintiff,)	
)	
v.)	Civ. Action No. 04-210-GMS
)	
SUPERVISOR FRANK COSTAN and)	
COUNSELOR VIDA DAWKINS,)	
)	
Defendants.)	

MEMORANDUM

I. INTRODUCTION

The plaintiff, Ricardo A. Castillo ("Castillo"), a former inmate who was housed at the Howard R. Young Correctional Institution ("HRYCI"), Wilmington, Delaware, filed this civil rights action pursuant to 42 U.S.C. § 1983. He alleges that the defendants, Supervisor Frank Costan ("Costan") and Counselor Vida Dawkins ("Dawkins") violated his right to free speech and retaliated against him for exercising this right, pursuant to the First Amendment. Pending before the court is the defendants' motion to dismiss the complaint on that basis that Castillo failed to exhaust his administrative remedies. (D.I. 24.) Castillo did not respond to the motion.

II. STANDARD OF REVIEW

Rule 12(b)(6) permits a party to move to dismiss a complaint for failure to state a claim upon which relief may be granted. Fed. R. Civ. P. 12(b)(6). The court must accept all factual allegations in a complaint as true and take them in the light most favorable to plaintiff. *Erickson v. Pardus*, -U.S.-, 127 S.Ct. 2197, 2200 (2007); *Christopher v. Harbury*, 536 U.S. 403, 406 (2002). A complaint must contain "a short and plain statement of the claim showing that the pleader is entitled to relief," in order to 'give the defendant fair notice of what the . . . claim is